

HOUSE CONSUMER AND EMPLOYEE AFFAIRS AMENDMENT

AMENDMENT NO._____

Signature of Sponsor

AMEND Senate Bill No. 2942*

House Bill No. 2879

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding the following as a new section, to be appropriately designated:

Section_____.

(a) As used in this section:

(1) "Telephonic sales call" means a call made by a telephone solicitor to a consumer, for the purpose of soliciting a sale of any consumer goods or services, or for the purpose of soliciting an extension of credit for consumer goods or services, or for the purpose of obtaining information that will or may be used by the solicitor or a third party for the direct solicitation of a sale of consumer goods or services or an extension of credit for such purposes or in connection with prizes, gifts or awards presentations;

(2) "Unsolicited telephonic sales call" means a telephonic sales call other than a call made:

(A) in response to an express request of the person called; or

(B) primarily in connection with an existing debt or contract, payment or performance of which has not been completed at the time of such call; or

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(C) to any person with whom the telephone solicitor has a prior or existing business relationship;

(3) "Telephone solicitor" means any natural person, firm, organization, partnership, association or corporation, or a subsidiary or affiliate thereof, doing business in this state, who makes or causes to be made a telephonic sales call, including, but not limited to, calls made by use of automated dialing or recorded message devices;

(4) "Consumer" means an actual or prospective purchaser, lessee or recipient of consumer goods or services; and

(5) "Division" means the division of consumer affairs of the department of commerce and insurance.

(b)(1) No telephone solicitor shall make or cause to be made any unsolicited telephonic sales call to any residential, mobile or telephonic paging device telephone number unless such person or entity has instituted procedures for maintaining a list of persons who do not wish to receive telephone solicitations made by or on behalf of that person or entity, in compliance with 47 CFR 64 or 16 CFR 310.

(b)(2) Nothing in this act shall apply to calls by a licensed insurance agent or persons working under the direction of a licensed insurance agent that are not for the purpose of completing the sale of an insurance contract over the telephone.

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(c) The division shall investigate any complaints received concerning violations of this section pursuant to § 47-18-106. The civil penalty shall not exceed one thousand dollars (\$1000) per violation. This civil penalty may be recovered in any action brought under this part by the division, or the division may terminate any investigation or action upon agreement by the person to pay a stipulated civil penalty. The division or the court may waive any civil penalty if the person has previously made full restitution or reimbursement or has paid actual damages to the consumers who have been injured by the violation. It shall be an affirmative defense in any action brought under this paragraph that the defendant has established and implemented reasonable practices and procedures to effectively prevent telephone solicitations in violation of the regulations established in this section.

SECTION 2. This act shall take effect January 1, 1997, the public welfare requiring it.